8157445/2023/TW-LTR-I-SOW01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Sri Palateerdapu Laxminarayana, S/o. Late Sambamurthy and (2) others R/o. Pedabheempalli village of Devipatnam Mandal presently in Alluri Siitharamaraju District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Siitharamaraju District in CMA No.147/2005, dated: 08.12.2008 in respect of land an extent of Acs. 4.68 Hec. in Survey No: 42 situated at Pedabeempalli village of Devipatnam Mandal, Alluri Siitharamaraju District erstwhile East Godavari District - Dismissed- Orders - Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.67 Dated: 30.10.2023
Read the following:

1. Revision Petition filed by Sri Palateerdapu Laxminarayana, S/o. Late Sambamurthy, R/o. Pedabheempalli village of Devipatnam Mandal, East Godavari District presently in Alluri Siitharamaraju District before the Hon'ble Dy.CM(TW), dated.02.02.2009.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No.147/2005, dated:08.01.2019.

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ORDER:

In the reference 1st read above, Sri Palateerdapu Laxminarayana, S/o.Late Sambamurthy and (2) others, R/o. Pedabeempalli village of Devipatnam Mandal Alluri Siitharamaraju District erstwhile East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Siitharamaraju District in CMA No.147/2005, dated: 08.12.2008 in respect of land an extent of Acs. 4.68 Hec. in Survey No: 42 situated at Pedabeempalli village of Devipatnam Mandal, Alluri Sitharamaraju District erstwhile East Godavari District.

2. **Brief history of the subject case:**

a) The Special Deputy Tahasildar(TW), Devipatnam(M), Alluri Sitharamaraju District has filed a Complaint under section 3(1) A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 for restoration of Petition Scheduled land after ejecting the non-tribal respondents (i.e. Palateerdapu Sambamurthy and another).

(P.T.O.)

b) The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District after due enquiry the respondents failed to produce any documentary evidence in support of their claim in person or through their counsel and the respondents purchased the Petition Scheduled land through Document No. 1464/73 and Registered at Sub-Registrar's Officer, Korukonda Village and Mandal and it is hit in violation of 3(1)(a) of Regulation 1 of 70.

c) Hence, The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District under section 3(2) (a) of APSALTR 1/59 as amended by 1/70 has ordered for ejection of non tribal respondents and their men if any from for restoration of the same to Government for onward assignment to eligible tribals. The Mandal Revenue Officer, Devipatnam is directed to implement the order and report compliance vide ADO LTRP No.485/2004, dated.02.08.2005.

d) Aggrieved by the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District, Sri Palateerdapu Sambamurthy, R/o. Tantikonda Village, Gokavaram Mandal, East Godavari District has filed an appeal against the orders LTRP No.485/2004, dt.02.08.2005 before the Additional Agent to Govt. cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District.

e) After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram has allowed the appeal filed by the Sri Palateerdapu Sambamurthy, R/o. Tantikonda Village, Gokavaram Mandal, East Godavari District with regard to the scheduled property covered by measuring Acs. 4.68 Hec. in Survey No: 42 situated at Pedabheempalli village of Devipatnam Mandal, Alluri Sitharamaraju District erstwhile East Godavari District and in CMA No.147/2005, dated.08.12.2008, uphold the orders passed by the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP No.485/2004, dated:02.08.2005.

3. Aggrieved by the above orders, the Sri Palateerdapu Lakshmi Narayana, S/o. late Sambamurthy and another R/o. Tantikonda Village, Gokavaram Mandal, East Godavari District has fled a Revision petition dated: dated.02.02.2009, before the Government of A.P., against the orders of the Additional Agent to the Govt. cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.147/2005, dated.08.12.2008 in respect of land an extent of Acs. 4.68 Hec. in Survey No: 42 situated at Pedabeempalli village of Devipatnam Mandal, Alluri Sitharamaraju District with a request to set aside the orders of LTRP and CMA and direct the respondents to drop all further proceedings against the petitioners in this regard and to pass such other or further order as

this Hon'ble Government may deem fit and proper in the circumstances of the case.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his Letter dated: 08.01.2019 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.147/2005, dated.08.12.2008 and the remarks on the affidavit filed by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 15.07.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

(I) This Revision Petition is filed by Sri Palateerdapu Laxminarayana, S/o. late Sambamurthy, Pedabheempalli village of Devipatnam Mandal of East Godavari District, presently in Alluri Sitharamaraju District against the orders of the Additional Agent to Government, Rampachodavaram, with regard to lands admeasuring Ac.4.68 in Sy.No 42 situated in Pedabeempalii Village of Devipatnam Mandal, East Godavari District, passed in C.M.A.No.147 of 2005, dated 08.12.2008 dismissing the appeal, while upholding the orders of the Special Deputy Collector (TW) passed in LTRP No.485 of 2004, dated: 02.08.2004 and ordering to restore the Petition Schedule land to Government for onward assignment to eligible tribals.

(II) The matter came for hearing finally before the Revision Authority on 15.07.2023. Counsel for the Revision Petitioner and the Special Deputy Collector were also present. Heard both sides and also opportunity is given to submit further submissions if any on or before 07-08-2023. The following order is made after perusal of the material documents available on the record.

(III) During the pending the Revision Petition for hearing, the counsel for the Revision Petitioner filed a petition seeking to bring the legal heirs of the Revision Petitioner on record since the Revision Petitioner Sri Palathirdapu Laxminarayana died on 21-03-2022 leaving his two sons

Palathirdapu Ajay, and Palathirdapu Akash. The said Petition is allowed on 15-07-2023.

(IV) The case of the Revision Petitioners is that the Petitioners have been in possession and enjoyment of the Scheduled lands and there is no prohibited transfer of land involved in the case, and the father of the Appellants in the Lower Court got the lands and possession in question prior to the commencement of AP Scheduled Area Land Transfer Regulations 1 of 70 and the transaction was held between the brothers of the family and requested to set aside the impugned order passed by the Addl. Agent to Government in CMA No. 147 of 2005.

(V) Initially a case was filed by the Special Deputy Tahsildar, Tribal Welfare, Devipatnam Mandal in LTRP No.485/2004, before the Special Deputy Collector, Tribal Welfare, Rampachodavaram against the non tribals namely Sri Palateerthapu Sambamurthy & Neelapanthapu Varahalu, and after an elaborate enquiry the Special Deputy Collector (TW) observed that the non-tribals purchased the Petition Schedule lands through a registered land deed No.1464/1973 and said transaction is hit under Section 3(1)(a) of AP Scheduled Area Land Regulation 1/70 and ordered to eject the non tribals from the Petition Schedule lands for onward assignment to eligible tribals.

(VI) Aggrieved by the said order passed by the Special Deputy Collector, Tribal Welfare who is a primary authority in LTRP order No.485/2004, the said Palateerthapu Sambamurthy filed an appeal in CMA No.147/2005, before the Additional Agent to Government. The Additional Agent to Government, Rampachodavaram after an enquiry in CMA No.147/2005 up held the orders passed by the primary authority. The Present Revision Petition is filed assailing the said order of the Appellate Authority/Additional Agent to Government.

(VII) The Additional Agent to Government furnished para-wise remarks opposing the contentions of the Revision Petitioners. The contention of the Addl. Agent to Government is that the claimants failed to prove their title over the Petition Schedule lands and the burden of proof lies on them under the Land Transfer Regulations 1 of 70 and further they also failed to produce documents such as Tax Receipts & Adangals in support of their claim in respect of the possession of the lands prior to the commencement of Land Transfer Regulations 1 of 70 and the Appellate Authority stated that he examined all the documents produced by the claimants and passed final orders in the Appeal while upholding the orders of the primary authority since a land transfer was effected through a registered deed No.1464/73 between the non tribal parties in violation of

the Land Transfer Regulations 1 of 70 and requested to dismiss the Revision Petition.

(VIII) While the matter is pending for consideration, a third party namely Sri Gudimetla Ramireddy filed a Petition claiming right over the part of the scheduled land of admeasuring Ac.1.08 in Sy.No.42 of the total Petition Scheduled land an extent of Ac.4.68 pleading that he was not aware of the proceedings of the court and requested to add as a respondent in the case tohear his argument. The said petition is allowed by the Revision Authority on 15- 07-2023.

(IX) The counsel for the Respondent/3rd party who is also a counsel for the Revision Petitioners fled a Written Arguments along with certain documents. The documents are including a copy of the Award No.01/2018, dated.27.01.2018 passed by the Authority under Polavaram Project, and also submitted the copy of the Registered sale deed bearing No 797 dated: 8-5-1964 through which the 3rd party purchased the land from another non tribe Palateerdhapu Nukaraju and whose father Veerabhadrudu had purchased the said land through a registered sale deed on 15-06-1923 from another non tribal Nagulapati Venkata Subbarao, and its related copy of the Re-Settlement Register for Fasili 1339 (year 1930) and other Revenue Records in support of his claim etc.

(X) The background of cases and rival submissions give rise to following points for consideration.

" Whether the claims of the Revision Petitioners and the Respondent/3rd party over the Petition Schedule land situated in the scheduled area are valid and proper under the provisions of the Land Transfer Regulations 1 of 70?"

(XI) The Clause (b) of Section 3(1) which was substituted by Regulation 1 of1970 raised a presumption that the property situated in the Agency Tracts inpossession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. The transfer of lands situated in the scheduled area in favour of non tribals is prohibited under the Land Transfer Regulations 1 of 70.

(XII) Both the primary authority and the Appellate Authority held that the land transfer was effected over the Revision Petition Schedule lands between the non tribals through a registered sale deed bearing No.1464/1973 is violative of the provisions of AP Scheduled Area Land Transfer Regulations 1 of 70 which prohibits the transfer of lands between the non tribals also. There is no evidence on the record to show that the non tribals purchaser came in to possession over the Petition Scheduled lands prior to the commencement of Land Transfer Regulations 1 of 70.

(XIII) The full bench decision of the Hon'ble High Court in its case Vemana Somalamma Vs Deputy Collector, Tribal Welfare, Rampachodavaram (1993(1) ALT 409) held that in the case of a transfer of land situate within the scheduled area by a nontribal in favour of another non-tribal which is absolutely void under the provisions of sub-section (1) of section 3, the non-tribal transferor is not entitled to have the land restored to him and that Clause (a) of subsection (2) of Section 3 of Regulation I of 1959, as amended by Regulation I of 1970, has no application to such a transfer. Even the transferee-non-tribal is also not entitled to retain the property.

(XIV) Therefore the sale transaction effected between the non tribals through a registered sale deed bearing No.1464/1973 is void under the Section 3 (1)(b) of AP Scheduled Area Land Transfer Regulations 1 of 70. Hence the finding given by the Additional Agent to Government is valid and proper in respect of the Revision Petition schedule lands admeasuring Ac.4.68 in Sy.No. 42 situated in the scheduled area. The claim of the Revision Petitioners is hereby disallowed.

(XV) Now the point further for consideration is whether the added respondent/3rd Party who is claiming his right over the land admeasuring Ac.1.08 in Sy.No.42 of the total Petition Schedule land of Ac.4.68 has a valid legal right? The claim of the 3rd party/respondent is based on the Registered sale deed bearing No 797 dated 08.05.1964 which is prior to commencement of Land Transfer Regulations 1 of 70. However the subsequent sale transaction held between the non-tribal parties through a registered sale deed bearing No.1464/1973 is void as per the provisions of Land Transfer Regulations 1 of 70. However the documents filed by the respondent/3rd party were not subjected to put for an enquiry before the Additional Agent to Government in C.M.A.No.147 of 2005.

(XVI) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the case is hereby remanded to the Addl. Agent to Government, Rampachodavaram to conduct an enquiry in respect of the claim of the respondent/3rd party only, a fresh by giving an opportunity to all the parties concerned including the Revision Petitioners and dispose of the case within three months from the date of the receipt of this order. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 6 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA,

Alluri Sitharamaraju District in CMA No. 147/2005, dated: 08-12-2008 are hereby upheld and the Revision petition filed by Sri Palateerdapu Laxminarayana, S/o. late Sambamurthy, Pedabheempalli village of Devipatnam Mandal, Alluri Siitharamaraju District, presently in Alluri Siitharamaraju District presently in ASR District against with regard to land an extent of 4.68 Hec. in Survey No: 42 situated at Pedabheempalli village of Devipatnam Mandal, Alluri Siitharamaraju District erstwhile East Godavari District is Dismissed and Interim orders passed if any are hereby vacated in the matter.

7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter accordingly and acknowledge the receipt of the case records, which are returned herewith to the Addititional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT(TW)

To
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.
The Additional Agent to Govt. cum Project Ofcer,
ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288.
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Devipatnam Mandal, Alluri Sitharamaraju District.
Sri Kola Satyaprasad, Advocate, Rampachodavaram,
Alluri Sitha Ramaraju District, PIN-533288.
Sri Palateerdapu Lakshmi Narayana, S/o. late Sambamurthy,
R/o. Tantikonda Village, Gokavaram Mandal,
Alluri Sitharamaraju District.
Sri Palateerdapu Venkateswara Rao, S/o. late Sambamurthy,
R/o. Tantikonda Village, Gokavaram Mandal,
Alluri Sitharamaraju District.
Sri Gudimetla Ramireddy, S/o. Sambareddy,
Padabeempalli Village, Devipatnam Mandal,
Alluri Sitharamaraju District
Copy to:
The P.S. to Hon'ble Dy. Chief Minister (TW)
The P.S. to Secretary (TW).

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The Commissioner of Printing, Stationery (for Publication in the AP Gazette), Vijayawada.
SF/SC.

// FORWARDED : : BY ORDER//

SECTION OFFICER